

U.S. Patent Application No. 09/736,820  
Request for Reconsideration dated November 20, 2003  
Response to Office Action dated August 25, 2003

**REMARKS/ARGUMENTS**

Reconsideration and continued examination of the above-identified application are respectfully requested.

At page 2 of the Office Action, the Examiner states that the request for reconsideration of the finality status of the Office Action dated May 7, 2003 was persuasive; therefore, the finality of the Office Action dated May 5, 2003 is withdrawn. The applicants and undersigned appreciate this decision.

At page 2 of the Office Action, the Examiner rejects claims 1, 5, 6, 19, 22, and 23 under 35 U.S.C. §102(b) as being anticipated by Bosco (U.S. Patent No. 3,808,032). According to the Examiner, Bosco at column 3, line 8, describes a floor surface covering having two or more polymeric flooring planks having edges, wherein the planks are connected to each other by a bonding agent. Furthermore, the Examiner asserts that the bonding agent is present on at least one of the edges of at least one of the planks, wherein the bonding agent includes at least one solvent that at least bonds the edges of the planks. The Examiner also asserts that according to Bosco, at column 3, line 8 and Figure 1, the bonding agent is present on at least each edge of each thermoplastic plank connected together to another thermoplastic plank. Additionally, the Examiner asserts that Bosco describes that the bonding agent is present on two opposite edges of each individual plank and that the polymeric flooring plank is in the shape of a tile. According to the Examiner, Bosco, at column 1, lines 50-53, describes that the polymeric flooring plank has a polymeric core with a laminate affixed on the surface of the core. The Examiner also suggests that Bosco, at column 4, lines 8-10, describes splines that are located between at least a portion of the

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polymeric planks, wherein at least a portion of the planks and splines are connected to each other by a bonding agent having at least one solvent that bonds at least the spline and plank together. Additionally, the Examiner states that Bosco, at column 3, lines 10-12 and column 4, lines 8-10 and 29, describes that the bonding agent is applied to at least one of the edges of at least one of the individual planks, splines, or both. For the following reasons, this rejection is respectfully traversed.

Claim 1 of the present application recites a floor surface covering including two or more polymeric flooring planks having edges, wherein the planks are connected to each other by a bonding agent, wherein the bonding agent is present on at least one of the edges of at least one of the planks, and wherein the bonding agent includes at least one solvent that at least bonds the edges of the planks. Furthermore, claim 19 of the present application recites, in part, that the floor surface covering includes at least one solvent that bonds together at least one spline and plank, wherein the bonding agent is applied to at least one of the edges of at least one of the individual planks, splines, or both.

Bosco relates to a process for imparting long lasting gloss, and color depth properties to wood-plastic composites comprising sanding, applying a small amount of a drying or semi-drying oil to the surface, and buffing. According to Bosco, the wood-plastic composite includes individual surface wood fibers coated with a composition so as to impart permanent high gloss, water spotting resistance, and stain resistance to the surface of the composite. See Example 1 of Bosco wherein the wood-plastic composite is 75% by weight wood. Also, contrary to the Examiner, Bosco does not show a laminate on a plank. A coating is discussed. This is not a laminate. Column 3 of Bosco

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describes various means for fastening planks together, such as edge-bonding (gluing), adhering them to a common backing, or mechanical fastener means. Furthermore, Bosco describes that fastening may be performed by embedding splined wires across the fillets spanning the width of a tile, preferably cutting off the ends of the wire and locking the wire in place in a punching operation to form a 6 inch by 6 inch floor tile. Alternatively, Bosco states that edges may include variations on tongue and groove interlocking configurations.

The wood-plastic pieces described in Bosco are not the polymeric flooring planks of the claimed invention. One skilled in the art, by reading Bosco, would conclude that the wood, present in a very high percent, is impregnated wood board, which is different from the polymeric flooring planks of the claimed invention. Furthermore, although Bosco describes fastening the planks together, such as edge-bonding (gluing), Bosco does not teach or suggest a bonding agent that includes at least one solvent. The Examiner is simply mistaken on this point. Bosco, at column 3, line 8, only mentions glue, and not bonding by the use of solvents. Glue and solvents are not the same. According to page 6, lines 21-23 of the present application, the bonding agent or composition contains a compound capable of dissolving the thermoplastic material forming the core of the plank. Thus, Bosco does not teach or suggest the bonding agent as recited in the claims of the present application. Accordingly, the rejection under 35 U.S.C. §102(b) over Bosco should be withdrawn.

At page 3 of the Office Action, the Examiner rejects claims 2-4, 20, and 27 under 35 U.S.C. §103(a) as being unpatentable over Bosco in view of Peralt Anstalt (GB 1,178,565). In addition to the Examiner's comments above regarding Bosco, the Examiner also asserts that Bosco describes a

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bonding agent that causes the monomer molecules to become linked throughout the wood, forming a network of polymer that envelopes wood cells, encasing them tightly within a seal of a plastic. The Examiner acknowledges that Bosco fails to teach or suggest that the bonding agent consists essentially of tetrahydrofuran or that the bonding agent includes at least two different solvents capable of at least bonding the edges of the polymeric portion of the plank. However, the Examiner asserts that Peralt Anstalt cures the deficiencies of Bosco. According to the Examiner, Peralt Anstalt, at column 1, lines 30 and 31 and column 2, lines 78-87, describes that the bonding agent consists essentially of tetrahydrofuran for the purpose of joining together two adjacent edges of polymeric materials. Therefore, the Examiner concludes that it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide Bosco with a bonding agent consisting essentially of tetrahydrofuran in order to bond two adjacent edges of polymeric materials. For the following reasons, this rejection is respectfully traversed.

The comments set forth above with respect to Bosco apply equally here. Peralt Anstalt shows a different product that is joined together in a completely different manner. Peralt Anstalt is directed to exterior panels that are used in roofing applications, and the term "overlapping" appears in the text (page 1, lines 16-19) and in the claims. Such a configuration would be typified by the overlapping of shingles on a roof, or clapboard on a house, and this configuration is confirmed by reference to the Figures. Such an overlapping configuration would be essential to ensure a watertight seal in outdoor applications, such as the roofs mentioned in the specification of Peralt Anstalt.

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In contrast, the planks of the claimed invention are designed preferably for floors. In such applications, the joining would be edge to edge, with no overlap of any kind, to produce a substantially flat surface. The claimed invention does not encompass the overlapping configuration found in Peralt Anstalt. The claimed invention relates to floor surface covering and the claims specifically recite the bonding agent being applied to the "edges" of the planks, as in claim 1. Furthermore, one skilled in the art would not overlap a floor surface covering.

The Examiner is misreading the plain meaning of the language and disregarding the diagrams of Peralt Anstalt. Several parts of the reference make it clear that the bonding of Peralt Anstalt is overlapping, rather than edge-to-edge. In particular, the text identified by the Examiner does not support the stated conclusion, since it does show the nature of the bonding, but is instead largely directed to "an apparatus for joining together plastic sheets."

Additionally, the Examiner refers to column 1, lines 30 and 31 of Peralt Anstalt, which quotes a welding agent. However, the agent in Peralt Anstalt is not used in an edge-to-edge joining, but in an overlapping connection that would not be used in flooring. In the claimed invention, the solvent is applied to the edges of the planks, not to their top or bottom faces, so as to avoid producing an overlapping structure. In fact, one skilled in the art of flooring would not look to the overlapping configuration. From the above, it is clear that Peralt Anstalt does not teach or suggest the claimed invention.

Furthermore, in the Office Action dated February 25, 2002 (paper #4, page 5, paragraph 4), the Examiner admits that Peralt Anstalt fails to teach or suggest that the bonding agent includes at least two different solvents capable of at least bonding the edges of the polymeric

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portion of the plank. In fact, in the present Office Action, the Examiner acknowledges that Peralt Anstalt states that the bonding agent consists essentially of tetrahydrofuran. As the Examiner should know, the use of the term "consisting essentially of" only allows inclusion of other components, ingredients, or process steps that do not materially affect the basic and novel characteristics of the invention. Thus, one skilled in the art by reading Peralt Anstalt, would not conclude that the bonding agent can include other bonding agents in addition to tetrahydrofuran.

Additionally, given that Peralt Anstalt is directed to exterior panels that are used in roofing applications, one skilled in the art would not conclude that Peralt Anstalt can be substituted for the glue of Bosco or that Peralt Anstalt and Bosco can be combined. Peralt Anstalt is non-analogous art since it relates to roofing tiles. One skilled in the art in flooring is not going to look to roofing tile technology for guidance or motivation. Further, one skilled in the art would not substitute basic glue (in Bosco) for a welding agent in Peralt Anstalt, especially since the material of Bosco is different from the roofing tiles of Peralt Anstalt. In addition, claims 2-4, 20, and 27 are dependent directly or indirectly on claims 1 or 19. Therefore, the reasons set forth above with respect to the patentability of claims 1 or 19 would also apply here. If there are any questions, the Examiner is encouraged to contact the undersigned by telephone.

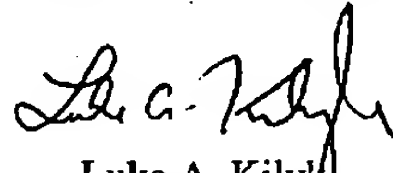
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**CONCLUSION**

In view of the foregoing remarks, the applicants respectfully request reconsideration of the present application and the timely allowance of the pending claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,

  
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